

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1498

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.2-3-7.5, AS AMENDED BY P.L.99-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 7.5. (a) **This subsection applies to members who die after March 31, 1990, and before January 1, 2007.** A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

~~(1) the member dies after March 31, 1990;~~

~~(2)~~ **(1)** the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

~~(3)~~ **(2)** the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection ~~(b)~~ **(c)** or ~~(c)~~ **(d)**.

(b) This subsection applies to members who die after December 31, 2006. A surviving dependent or surviving spouse of a member

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who dies is entitled to a survivor benefit if:

(1) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least ten (10) years but not more than fourteen (14) years of creditable service if the member was at least sixty-five (65) years of age and died in service in a position covered by the fund (other than a position described in clause (A)); or

(C) at least fifteen (15) years of creditable service, if the member died in service in a position covered by the fund (other than a position described in clause (A)); and

(2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (c) or (d).

~~(b)~~ (c) If a member described in subsection (a) **or** (b) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections ~~(e)~~ (f) and ~~(g)~~ (h).

~~(e)~~ (d) If a member described in subsection (a) **or** (b) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total

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disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections ~~(e)~~ (f) and ~~(g)~~ (h).

~~(d)~~ (e) Except as provided in subsections ~~(e)~~ (f) and ~~(h)~~ (i), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter to the extent of the lump sum payment.

~~(e)~~ (f) If a member described in subsection (a) or (b) or section 7.6(a) of this chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

~~(f)~~ (g) If a member dies:

(1) without a surviving spouse or surviving dependent who

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qualifies for survivor benefits under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection ~~(e)~~; (f);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

~~(g)~~ (h) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

~~(h)~~ (i) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection ~~(b)~~ (c) or ~~(c)~~ (d) or section 7.6 of this chapter, but are payable in a lump sum payment to:

- (1) the member's surviving designated beneficiary; or
- (2) the member's estate, if there is no surviving designated beneficiary.

~~(i)~~ (j) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

~~(j)~~ (k) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

- (1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and
- (2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 2. IC 5-10.2-3-7.6, AS AMENDED BY P.L.99-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 7.6. (a) This section applies to the surviving spouse and the surviving dependent of a member who:

- (1) dies after June 30, 1996;
- (2) has at least thirty (30) years of creditable service; and
- (3) dies in service in a position covered by the fund.

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the board may determine that the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to

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the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty-five (55) years of age; or
- (2) the actual date of death;

whichever is later. However, benefits payable under this section are subject to ~~IC 5-10.2-3-7.5(c) and IC 5-10.2-3-7.5(g)~~; **section 7.5(f) and 7.5(h) of this chapter.**

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the board may determine that the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty-five (55) years of age; or
- (2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) on the date the dependent becomes eighteen (18) years of age, the monthly benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this section are subject to ~~IC 5-10.2-3-7.5(c) and IC 5-10.2-3-7.5(g)~~; **section 7.5(f) and 7.5(h) of this chapter.**

SECTION 3. [EFFECTIVE JULY 1, 2009] (a) As used in this SECTION, "fund" refers to the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.

(b) Not later than October 1, 2009, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was disabled before January 1, 2009, and who is entitled to receive a monthly benefit on July 1, 2009. The amount is not an increase in the pension portion of the monthly benefit.

(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the

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requirements of subsection (b) is determined as follows:

If a Member's Creditable Service Is:	The Amount Is:
At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	\$150
At least 10 years, but less than 20 years	\$275
At least 20 years, but less than 30 years	\$375
At least 30 years	\$450

(d) The creditable service used to determine the amount paid to a member (or a survivor or beneficiary of a member) under this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4 except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(e) This SECTION expires January 1, 2010.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 5-10.2 apply to this SECTION.

(b) The fund must make a reasonable effort to:

(1) identify a surviving spouse or surviving dependent of a member who:

(A) died after December 31, 2006;

(B) had at least ten (10) years of creditable service; and

(C) was not eligible for a survivor benefit under IC 5-10.2-3-7.5, before its amendment by this act, but is eligible for a survivor benefit under IC 5-10.2-3-7.5, after its amendment by this act; and

(2) notify an individual described in subdivision (1) of changes made by this act.

The fund is considered to have made a reasonable effort to notify a surviving spouse or surviving dependent of changes made by this act if the fund mails notification of changes made by this act to the member's last known address.

(c) Notwithstanding IC 5-10.2-3-7.5(k), as amended by this act, a surviving spouse or a surviving dependent who qualifies for a survivor benefit under IC 5-10.2-3-7.5(c) or IC 5-10.2-3-7.5(d), both as amended by this act, for a member described in subsection (b), who died after December 31, 2006, may claim the survivor benefit on or before the later of the following:

(1) June 30, 2009.

(2) The date the survivor benefit is forfeited to the member's retirement fund under IC 5-10.2-3-7.5(k), as amended by this

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act.

(d) This SECTION expires January 1, 2010.

SECTION 5. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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HEA 1498 — Concur+

